

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION



In the Matter of)

Schering-Plough Corporation,)
a corporation,)

Upsher-Smith Laboratories,)
a corporation,)

and)

American Home Products Corporation,)
a corporation.)

Docket No. 9297


**ORDER GRANTING RESPONDENT UPSHER SMITH'S MOTION
FOR THE ISSUANCE OF A SUBPOENA *DUCES TECUM*
TO THE FOOD AND DRUG ADMINISTRATION**

On July 25, 2001, pursuant to Rule 3.36 of the Commission's Rules of Practice, Respondent Upsher-Smith Laboratories, Inc. ("Upsher-Smith") filed a motion for an order authorizing the Secretary of the Commission to issue a subpoena *duces tecum* to the United States Food and Drug Administration ("FDA"). Upsher-Smith has represented that Complaint Counsel does not oppose this motion. Respondent's motion is GRANTED.

Pursuant to Rule 3.34, in the event that the FDA seeks to limit or quash the subpoena, the FDA shall have the earlier of ten days after service of the subpoena or the time for compliance therewith to file any such motion. 16 C.F.R. § 3.34(c).

Upsher-Smith shall serve a copy of this order on the FDA at the time it serves the subpoena. 16 C.F.R. § 3.36(c).

ORDERED:


D. Michael Chappell
Administrative Law Judge

Date: July 26, 2001